

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

CANDACE L. SHEPHARD-COLLETTE,)

Plaintiff,)

v.)

ANDREW M. SAUL,
COMMISSIONER OF THE SOCIAL
SECURITY ADMINISTRATION¹,)

Defendant.)

Case No. CIV 17-435-C

ORDER

On December 18, 2017, this Court issued an Order and Judgment [Doc. Nos. 24 & 25] reversing Defendant Commissioner of Social Security Administration's denial of Plaintiff's application for Disability Insurance Benefits and remanding this case for further administrative proceedings pursuant to sentence four of 42 U.S.C. § 405(g).

Plaintiff's attorney filed Plaintiff's Application for Award of Attorney's Fees pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, on January 3, 2018. [Doc. No. 28.] Ultimately, on January 18, 2018, the Court entered an Order awarding Plaintiff EAJA attorney fees in the amount of \$4,079.20. [Doc. No. 30.]

Upon remand to the Commissioner, Plaintiff received a fully favorable decision that found Plaintiff was disabled and was entitled to monthly disability benefits beginning

¹ On June 4, 2019, the Senate voted to confirm Andrew Saul as the Commissioner of the Social Security Administration. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Andrew Saul should be substituted for Acting Commissioner Nancy A. Berryhill as the defendant in this suit. No further action needs to be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

December 15, 2009. Plaintiff was awarded total past-due benefits in the amount of \$65,823.00 for the period of June 2013 through June 2019.

Subsequently, on September 17, 2019, Plaintiff's counsel filed her Motion for Award of Attorney's Fees pursuant to 42 U.S.C. § 406(b)[Doc. No. 33], requesting a total fee of \$9,079.20. On September 17, 2019, the Court issued an Order allowing Plaintiff to file her Motion for Award of Attorney's Fees at that time despite the fact Plaintiff was unable to file this motion within fourteen days of the date of judgment. [Doc. No. 32.] Plaintiff has also specifically advised that she has no objection to the attorney's fee requested pursuant to 42 U.S.C. § 406(b). Defendant has also filed a response indicating he has no objection to Plaintiff's Motion for Attorney's Fees pursuant to 42 U.S.C. § 406(b). [Doc. No. 34.]

Having considered the record in this case, the Court finds that the requested attorney's fee in the amount of \$9,079.20 is reasonable and, thus, Plaintiff's counsel is entitled to an award of attorney's fees in the amount of \$9,079.20 pursuant to 42 U.S.C. § 406(b). Therefore, the Court does hereby:

ORDER that Plaintiff's counsel is awarded attorney's fees pursuant to 42 U.S.C. § 406(b)(1), in the amount of \$9,079.20. Further, Plaintiff's counsel shall reimburse to Plaintiff the smaller of either the EAJA award of \$4,079.20 which she received previously or the subsequent award under 42 U.S.C. § 406(b) as required by *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 10th day of December, 2019.


ROBIN J. CAUTHRON
United States District Judge